

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 1689 - SB 1736

June 2, 2020

SUMMARY OF ORIGINAL BILL: Requires each public school that serves any combination of grades five through twelve and that provides interscholastic sports or athletic events for the school's students, to require each student to verify that the student is of the respective sex before the student may participate in the interscholastic sport or athletic event. Authorizes a student to verify the student's sex by providing the school with a birth certificate or the results of a DNA test. Prohibits a school from accepting a birth certificate that has been revised, altered, or amended with respect to the student's sex or that does not designate the student as male or female. Prohibits a school from allowing a student to participate in a single-sex interscholastic sport or athletic event if a student fails to verify the student's sex or if the public school determines that the student is not of the respective sex.

FISCAL IMPACT OF ORIGINAL BILL:

Other Fiscal Impact – A violation or failure to comply with federal regulations may jeopardize recurring federal funding for education.

SUMMARY OF AMENDMENT (017927): Deletes all language after the caption. Requires that a student's gender, for purposes of participation in a public middle school or high school interscholastic athletic activity, must be determined by the student's sex at the time of birth, as indicated on the student's original birth certificate. Requires a student to provide other evidence indicating the student's sex at the time of birth if the student's original birth certificate does not appear to be the original or does not indicate the student's sex. Requires the student or student's parent to pay any costs associated with providing evidence required in this section. Requires the State Board of Education (SBE), each local board of education, and each governing body of a public charter school to adopt and enforce policies to ensure compliance with this section. Excludes students in kindergarten through grade four from the requirements of this section.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

NOT SIGNIFICANT

Assumptions for the bill as amended:

- The proposed legislation requires a student's gender be determined by the student's biological sex as indicated on the student's original birth certificate for the purposes of participating in an interscholastic athletic activity.
- Title IX of the Education Amendments of 1972 prohibits a person, on the basis of sex, from being excluded from participation in, to be denied the benefits of, be treated differently from another person or otherwise be discriminated against in any interscholastic, intercollegiate, club or intramural athletics offered by a recipient, and no recipient shall provide any such athletics separately on such basis.
- Pursuant to 34 C.F.R. Part 106 a school may operate or sponsor separate teams for members of each sex where selection for such teams is based upon competitive skill or the activity involved is a contact sport.
- Requiring athletes to participate with and compete against other athletes based on the biological sex may exclude certain genders from participation in specific sports.
- A school may use a student's original birth certificate for the basis of determining a student's gender for the purposes participating in an athletic activity and remain in compliance with federal law; in which case there would be no significant impact to state or local government.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

/alh